

**IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE
DISTRICT OF ALABAMA
SOUTHERN DIVISION**

**KATHRYN BAUMAN
RUBENSTEIN,**

Plaintiff,

vs.

BETTY JO BAUMAN, et al.,

Defendants.

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)CIVIL CASE NO:1:07-CV-798-MHT

ANSWER AND MOTION TO DIMISS OF PLAINTIFFS AMENDED

COMPLAINT

COMES, Defendant, Richard H. Ramsey, III by and through his attorney of record and pursuant to Rule 12(b)(6) and Rule 12(c) of the Federal Rules of Civil Procedure (FRCP), move this Honorable Court to dismiss Plaintiff's Complaint, First Amended Complaint and Second Amended Complaint for failure to state and claim against said Defendants upon which relief can be granted. In support of this Motion, Defendants show unto the Court as follows:

1. Plaintiff has failed to comply with the Order of the U.S. magistrate Judge Wallace Capel, Jr., dated September 13, 2007, by timely filing of her Second Amended Complaint in accordance with the Court's Order. Additionally, Plaintiff has failed to plead with specificity, in any of her Complaints, facts of claims against any of the states Defendants as directed by the Court's Order.
2. Plaintiff purports to assert against the Defendants conspiracy "to fraud and deny Plaintiff her Civil Rights including due process in Houston County

Circuit Court Case CV-02-5063 and the subsequent appeal before the Alabama Court of Civil Appeals and the Alabama Supreme Court.” Plaintiff’s Complaint, as amended, fails to allege any facts or claims against any of these Defendants, which would support any claim for relief.

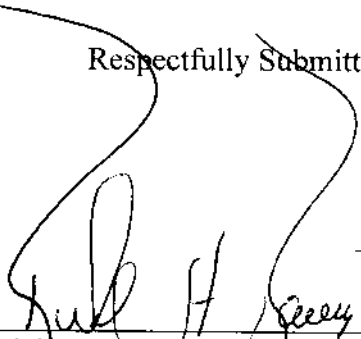
3. Plaintiff’s Complaint, as amended, is in all respects legally deficient under any set of facts that she can prove consistent with her Complaint.
4. The claims against these Defendants, if any, as set forth in Plaintiff’s Complaint, as amended, are barred by the doctrine of res judicata, collateral estoppel and the Rooker-Feldman doctrine.
5. Said Defendants reserve the right to seek sanctions against Plaintiff and reimbursement for attorney’s fees and costs pursuant to Rule 11 of the FRCP.
6. Under Plaintiffs process count 2 (79) the Plaintiff attempts to recite that she contracted with the within Defendant to represent her in CV-02-5063.

A) The within Defendant never agreed to represent the Plaintiff in such proceeding, never filed any appearance, and never contacted nor negotiated with any party involved in the litigation.

B) Plaintiff alleges a claim under the Code of Alabama 1975, Title 6, Article 8, Sec. 6-5-100. This section merely represents an action of fraud, and has nothing whatsoever to do with any allege legal malpractice.

WHEREFORE, based on the foregoing, said Defendants request and pray that this Court grant his Motion to Dismiss. Defendants pray for such other, different and further relief, as the Court deems appropriate and reasonable under the circumstances.

Respectfully Submitted.



Richard H. Ramsey, III (RAM004)
Attorney for Defendant
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CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel/parties of record with the following exceptions to be notified via regular U.S. Mail, postage pre-paid:

I further certify that I have served the following by placing a copy thereof in the United States Mail, postage prepaid and properly addressed:

Kathryn Bauman Rubenstein
P.O. Box 2243
Dothan, AL 36302



Of Counsel